

**REMARKS**

***I. Claim Rejections under 35 U.S.C. § 112***

The Examiner has rejected claims 1-14 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner notes that “[w]ith respect to the optimizing relocation of forces, by physical laws, it seems that having more than one strap support would provide added security to the cover since the wind force on the cover would evenly distribute over the securing strap.” From the Declaration of Barton Daniel, Applicant establishes the fact that there has existed a long-felt and unresolved need in the market for module covers capable of withstanding strong gusts of wind. See Declaration, Paragraph 4. The Declaration establishes further that the results realized from the claimed configuration were unexpected and significant. See Declaration, Paragraph 5. The Declaration further establishes the fact that there has been skepticism of experts. See Declaration, Paragraph 6. The Declaration also establishes that the claimed invention reads on the commercial embodiment of the claimed invention, see Declaration, Paragraph 7. In addition, the claimed invention exhibits a greater resistance to being displaced by strong gusts – the cover stays on the module better. See Declaration, Paragraph 7.

As evidenced by the accompanying declaration, a concentration of the available vertical force along a single path is more effective at resisting displacement caused by wind than

distributing the available vertical force does not contradict physical laws. See Declaration, Paragraph 8. As such, Applicant respectfully submits that this rejection shall be withdrawn.

## ***II. Rejections under 35 U.S.C. § 103***

### ***A. Rejection of Claim 8***

Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Porter (U.S. 5,904,243) (“Porter ‘243”), and in view of Frieder et al. (U.S. 3,011,820) (“Frieder ‘820”). In support of this rejection, the Office action notes that “[i]t would have been obvious to one of ordinary skill in the art to provide only one support to provide the desired number of support and/or to save material. Furthermore, it would have been obvious to one of ordinary skill in this art to eliminate the other when its function is not desired.”

Applicant respectfully submits that the provision of only one support to optimize relocation of forces and enhance the covers ability to withstand peak wind conditions is not obvious. As shown in the teaching of the prior art, and as also evidenced by the accompanying Paragraph 6 of the Declaration, there has been skepticism of experts. According to the Office action itself, there seems to be a sentiment against using a single vertical strap support. Accordingly, the structural benefits of utilizing a single strap, and thereby concentrating the vertical forces over the top of the module, were an unexpected result. See Declaration, Paragraph 5.

The Office action further suggests that “[i]t would have been obvious to one of ordinary skill in the art to provide only one support to provide the desired number of support and/or to save material.” The material costs of adding another support would generally be extremely small in relation to the cost of the cover and would not provide sufficient motivation to one skilled in the art to reduce the number of supports. Furthermore, the function of the multiple straps was desired in the prior art as shown by Porter ’243 teaching away from the use of a single vertical strap, presumably due to an intuitive belief that multiple vertical straps are more effective. However, by reducing the number of vertical supports to one, Applicant has not merely eliminated an undesired function, it has enhanced the overall performance of the cover. As evidenced by the accompanying Declaration (Paragraph 5) this is an unexpected and non-obvious result.

Alternatively, the Office action notes that Frieder ’820 teaches that it is known in the art to provide the sides with only one support. However, Frieder ’820 discloses only a cargo net. As described in Frieder ’820, “[c]argo nets have long been in use as a means for transferring cargo, equipment, and the like from ship to shore, from ship to ship and for other like uses. Such nets are also used to hold down cargo on the deck of an aircraft or the like to prevent shifting.” See Frieder ’820, Col. 1, Lines 13-17. As also established by the accompanying Declaration, cargo nets and module covers are used in totally different fields of application. See Declaration, Paragraph 9. Cargo nets are to transfer cargo, equipment, and the like, or to hold items down. Id. Cargo nets do not cover items or protect them from rain and the like. Moreover, cargo nets

and module covers are totally different in their structures. Id. Cargo nets which are mesh do not protect against rain and are generally unaffected by wind. Module covers are solid, protect against rain, and are highly affected by wind. Id. The very properties associated with cargo nets are exactly opposite the properties that are required by module covers. Id.

Accordingly, Applicant submits that the use of a single vertical strap on the claimed cover is non-obvious and respectfully requests that this refusal be withdrawn.

***B. Rejection of Claim Nos. 1-3, 5, 6, 9-11, 13 and 14***

The Examiner has rejected Claims Nos. 1, 3, 5, 6, 9-11, 13 and 14 under 35 U.S.C. §103(a) as being unpatentable over Porter '243, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Porter '243 in view of Horwath '846 or Gallagher '905. In support of this rejection, the Office Action notes:

With respect to support strap at the midpoint, to have the only on support strap in the modified cover of Porter to be placed at the midpoint at the corresponding side walls would have been obvious to provide the desired placement of the support strap. Furthermore, rearrange parts of an invention involves only routine skill in the art, see *In Re Japikse*, 86 USPQ 70 (CCPA) 1950.

As discussed in Sections I and II(A), *supra*, and as evidenced by the accompanying Declaration, Applicant submits that the use of a single vertical support strap to enhance the performance of the cover is non-obvious. See Declaration, Paragraphs 5 and 8. The prior art

teaches away from the use of a single strap, and the benefits of using a single strap were an unexpected result. See Declaration, Paragraph 6. Accordingly, Applicant respectfully requests that this refusal be withdrawn.

***C. Rejection of Claim Nos. 4, 7 and 12***

The Examiner has rejected claims 4, 7 and 12 under 35 U.S.C. 103(a) as being unpatentable over Porter '243 in view of either Campbell '461 or Frieder '820. Independent claim 7 includes, and dependent claims 4 and 12 depend from claims that include, the limitation of no more than one point of contact between the securing strap and the first and second support straps on respective sides of the module. As discussed in Sections I and II(A), *supra*, and also evidenced by the accompanying Declaration, Applicant submits that the use of a single vertical support strap to enhance the performance of the cover is non-obvious. See Declaration, Paragraphs 5 and 8. The prior art teaches away from the use of a single strap, and the benefits of using a single strap were an unexpected result. See Declaration, Paragraph 6. Accordingly, Applicant respectfully requests that this refusal be withdrawn.

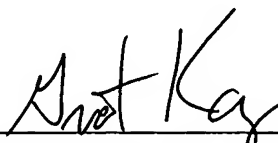
***III. Conclusion***

Applicants respectfully submit that the independent claims are allowable over the prior art of record, including the cited references. For similar reasons, and for the additional reasons set forth above, Applicants urge that the dependent claims are also allowable.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided. Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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